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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,665	08/29/2000	Robert Daniel Maher III	NR-5	1352

7590 09/24/2004

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EXAMINER

FIELDS, COURTNEY D

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/651,665

Applicant(s)

MAHER ET AL.

Examiner

Courtney D. Fields

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendments made to the abstract and Claim 1 have been accepted by the Examiner.

Response to Arguments

1. Applicant's arguments filed 27 May 2004 have been fully considered but they are not persuasive.
2. Referring to the rejection of claims 1,3, and 6-16, the Applicant argues that the prior art Chen does not teach nor disclose scanning data packets. The Examiner respectfully disagrees and asserts that the prior art (Chen) clearly discloses performing virus scanning with an email message in Column 8, lines 16-22. As further shown in Column 7, lines 34-59, the steps in Figure 3, show the attachment which is within the email message is scanned for any viruses and afterwards appropriate action is taken to inoculate the virus.
3. Therefore, the rejection of claims 1-18 are maintained in view of the reasons above and in view of the reasons below.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,3, and 6-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen et al. (5832208).

In figure 3, Chen et al. present: a method for removing viruses from e-mail messages. Element 235 anticipates scanning an e-mail message, and hence the data packets from which the message is made. Lines 11-17 of column 5 indicate that the messages can be flowing over the Internet. Thus, the first clause of claim 1 is anticipated. Element 200, which detects attachments, anticipates the third clause. Element 215, which detects viruses, anticipates detecting a known virus. Signature recognition, and hence the entire scope of the second clause, is taught in lines 46-52 of column 2. Element 255 deletes infected attachments, which is a form of bit alteration that inoculates the e-mail. Element 270, which is used to "cure" the attachment, would also affect some alteration of the attachment's bits. Either element anticipates the final clause of the first claim.

The agent, element 110, and the discussion in lines 18-67 of column 5 and lines 1-8 of column 6 anticipate claim 3. Line two of column 6 specifically says that the agent operates in real-time, Chen et al.'s focus on attachments as containing viruses anticipates claim 6. Claims 7 and 8 are anticipated by Chen et al.'s mention of virus signatures. Figure 3 makes clear that data is recognized as e-mail before being scanned for viruses. Claim 10 is a device for performing claims 1, 3, and 7. Claims 12 and 14 are anticipated by the discussion of periodic scanning in 57-60 of column 5. The limitations of claims 11 and 15 are met by element 215, which is not described as being limited in its scanning powers. Claim 13 is anticipated because e-mails include a variety

of data, date and time of transmission, sender, recipient, etc., that uniquely identifies an e-mail message. Claim 16 is anticipated by the description of virus detection by signature comparison.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. in view of Templeton (6401210).

Chen et al. present a system that cures virus-ridden e-mail messages. They do not say that the cure is to write over the virus with a predetermined value. In lines 36-37 of column 1, Templeton teaches writing over a virus with a string of zeros as a technique to cure a document. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to cure the e-mail in Chen et al. according to the well-known technique taught by Templeton.

7. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. in view of Kuo et al. (6230288).

Chen et al. present a system that cures virus-ridden e-mail messages. Chen et al. specifically teach analyzing e-mail attachments, not the text of the e-mail. Kuo et al. mention that a virus can now be implemented in ASCII text; ASCII text is used to create e-mail text. Therefore it would have been obvious to a person of ordinary skill in the art

at the time the invention was made for Chen et al. to combat the problem taught by Kuo et al. by scanning ASCII text in the e-mails.

8. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al.

Chen et al. present a system that cures virus-ridden e-mail messages. Chen et al. check potentially infected data against known signatures. The known signatures comprise a database. Chen et al. do not say that the database is recompiled at a server upon an update or that the update is sent directly to the database for update. Official notice is taken that it is old and well-known to recompile a database at host and reload the entire database and to add new entries to a database directly. While the latter is more efficient in that there is less data transmitted, the former guards against the degradation of the database. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made for Chen et al. to update the virus signatures by either receiving specific updates or by receiving replacement lists of virus signatures.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 2137

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Courtney D. Fields whose telephone number is 571-272-3871. The examiner can normally be reached on Mon - Wed. 6:00 - 6:00 pm; Thur. 6:00 - 10 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


cdf

September 8, 2004


MATTHEW SMITHERS
PRIMARY EXAMINER
Art Unit 2137